

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF USAA
AS SUBROGEE OF MYRON SHULTZ IN
THE AMOUNT OF \$10,000.00 AGAINST THE
CITY OF ATLANTA ARISING FROM TWO
SEWER BACK UPS**

02-R-0325

WHEREAS, USAA as subrogee of MYRON SHULTZ has filed a claim against the City of Atlanta seeking damages arising out of two sanitary sewer back ups to its insured's property located at 635 Greystone Parkway, Atlanta, Georgia; and

WHEREAS, property owned by MYRON SHULTZ has been damaged due to sewer back ups resulting from the continuous malfunctioning of a sewer pump that was placed in the mainline on Pelham Road temporarily to correct a collapsed line on June 5, 2001; and

WHEREAS, the City of Atlanta was on notice but failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$10,000.00 and has agreed to accept this sum in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of USAA as subrogee of MYRON SHULTZ, be settled for the sum of \$10,000.00

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$10,000.00 be paid by the City of Atlanta to USAA as subrogee of MYRON SHULTZ, in satisfaction of any and all claims it may have stemming from damages sustained to its insured's property on or about June 22 and June 27, 2001, at 635 Greystone Parkway and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,

Phonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

MAR 04, 2002
MAR 12, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0494

Date: February 14, 2002

Claimant /Victim **MYRON SHULTZ**
BY: (Atty) (Ins. Co.) USAA
Address: P. O. Box 31643 Tampa, Florida 33631-3643
Subrogation: X Claim for Property damage \$ 10,000.00 Bodily Injury \$ _____
Date of Notice: 7/30/01 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 6/22/01, 6/27/01 Place: 635 Greystone Parkway
Department PUBLIC WORKS Division Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained damages to his residence from two sanitary sewer back ups. An investigation determined that a sewer pump, which was placed inside the mainline on Pelham Road as a result of a collapsed line on June 5, 20001, malfunctioned and caused the backups to occur at the above location.


INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X
 Pictures Diagrams Reports: Police Dept Report X Other X
 Traffic citations issued: City Driver Claimant Driver
 Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental _____ X _____ Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____ X
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent _____ X _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 10,000.00 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: *[Signature]* Concur/date 02-15-82
Committee Action: Council Action

RCS# 3550
3/04/02
1:31 PM

Atlanta City Council

Regular Session

CONSENT I

Pgs.1-12;Except02-R-0348;02-R-0350;0380
02-R-0387;02-R-0347;02-O-0364;02-O-0249
ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

ITEM (S) REMOVED FROM
CONSENT AGENDA
02-O-0364
02-O-0380
02-O-0249

CONSENT I

**ITEMS ADOPTED
ON CONSENT
AGENDA**

1. 02-O-0370
2. 02-O-0155
3. 02-O-0200
4. 02-O-0243
5. 02-O-0374
6. 02-O-0371
7. 02-O-0372
8. 02-R-0348
9. 02-R-0350
10. 02-R-0387
11. 02-R-0199
12. 02-R-0209
13. 02-R-0353
14. 02-R-0367
15. 02-R-0383
16. 02-R-0386
17. 02-R-0327
18. 02-R-0328
19. 02-R-0329
20. 02-R-0330
21. 02-R-0331
22. 02-R-0333
23. 02-R-0334
24. 02-R-0339
25. 02-R-0325
26. 02-R-0326
27. 02-R-0345

**ITEMS ADOPTED
ON CONSENT
AGENDA**

28. 02-R-0203
29. 02-R-0365
30. 02-R-0315
31. 02-R-0316
32. 02-R-0317
33. 02-R-0318
34. 02-R-0319
35. 02-R-0320
36. 02-R-0321
37. 02-R-0322
38. 02-R-0323
39. 02-R-0284
40. 02-R-0285
41. 02-R-0286
42. 02-R-0287

**ITEMS ADVERSE
ON CONSENT
AGENDA**

43. 02-R-0288
44. 02-R-0289
45. 02-R-0290
46. 02-R-0291
47. 02-R-0292
48. 02-R-0293
49. 02-R-0294
50. 02-R-0295
51. 02-R-0296
52. 02-R-0297
53. 02-R-0298
54. 02-R-0299
55. 02-R-0301
56. 02-R-0302
57. 02-R-0303
58. 02-R-0304
59. 02-R-0305
60. 02-R-0306
61. 02-R-0307
62. 02-R-0308
63. 02-R-0309
64. 02-R-0310
65. 02-R-0311
66. 02-R-0312
67. 02-R-0313
68. 02-R-0314

02-0325

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING
THE SETTLEMENT OF THE
CLAIM OF USAA as subrogee of
MYRON SHULTZ IN THE
AMOUNT OF \$10,000.00 AGAINST
THE CITY OF ATLANTA ARISING
FROM TWO SEWER BACK UPS

By:

Robert N. Godfrey

Deputy City Attorney

ADOPTED BY

MAR 04 2002

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee PSLA
Date 06 Feb 02
Chair C. M. A. Zell
Action: [Signature]
Fav, Adv, Hold (see rev. side)
Other: [Signature]
Members [Signature]
Refer To [Signature]

Committee _____
Date _____
Chair _____
Action: _____
Fav, Adv, Hold (see rev. side)
Other: _____
Members _____
Refer To _____

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED
MAR 04 2002
ATLANTA CITY COUNCIL PRESIDENT
Catherine Woodard

CERTIFIED
MAR 04 2002
ATLANTA CITY COUNCIL CLERK
Flora Douglas Johnson

MAYOR'S ACTION

MAYOR
MAR 12 2002
Curley Branch